

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 726 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI  
and  
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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HEIRS OF DEC DAHYAJI RUMALBHAI SOLANKI

Versus

SPECIAL LAND ACQUISITION OFFICER (MAHI CANAL)

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Appearance:

MR GM AMIN for Petitioners

Mr.S.J. Dave, AGP, for Respondent No. 1, 2

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CORAM : MR.JUSTICE M.H.KADRI  
and  
MR.JUSTICE C.K.BUCH

Date of decision: 29/03/2000

ORAL JUDGEMENT

1. Rule. Learned AGP, Mr. S.J. Dave waives

service of Rule on behalf of the respondents. At the request of the learned advocates for the parties, this Special Civil Application is taken up for final hearing.

2. The petitioners, by filing this petition under Article 226 of the constitution of India, have prayed to issue appropriate writ, order or direction calling upon respondent No.1, Special Land Acquisition Officer (Mahi Canal), to declare award under Section 28A of the Land Acquisition Act, 1894 ("Act" for short), with respect to the petitioners' lands bearing Survey No.467, 468(1) and 469 situated in the sim of village Kawath, Taluka: Kapadwanj, District Kheda.

3. The petitioners' land along with other agricultural lands came to be acquired for public purpose of 'Nadiad-Kapadwanj-Modasa Project Broad-guage Railway Line'. Notification under Section 4(1) of the Act was published in the government gazette on July 24, 1980. After following usual procedure, declaration under Section 6 of the Act was made on June 11, 1981. The Land Acquisition Officer had made award under Section 11 of the Act on February 27, 1986. Other owners of acquired lands had preferred Land Acquisition Cases Nos. 142/86 to 176/86 in the District Court, Kheda, at Nadiad, for determination of market value of acquired lands. The said Reference Cases were disposed of by the Reference Court on October 1, 1990. The petitioners, thereafter, filed application under Section 28A of the Act for redetermination of market value of acquired lands. The said application is still pending before respondent No.1. Common judgment and award of the Reference Court rendered in Land Acquisition Cases Nos. 142/86 to 176/86 was challenged by the Land Acquisition Officer in this Court by filing First Appeals Nos. 167 of 1993 to 201 of 1993, which came to be dismissed by Division Bench (Coram: J.M. Panchal & R.P. Dholakia, JJ.) by judgment and order dated July 28, 1999. Therefore, the judgment and award of the Reference Court rendered in Land Acquisition Cases Nos. 142/86 to 176/86 had become final.

4. Learned counsel for the petitioners has pointed out that, in spite of several reminders by the petitioners through their advocate, the first respondent is not deciding their application filed under Section 28A of the Act and, therefore, necessary direction is required to be issued against respondent No.1 to decide the petitioners' application filed under section 28A of the Act. Learned counsel for the petitioners further submitted that, in view of the circular dated March 10, 1997, bearing LAQ-2269-685-GH, the application filed by

the claimants under Section 28A of the Act should be decided within period of three months. Learned counsel for the petitioners, therefore, submitted that, though the application under Section 28A of the Act was filed on March 15, 1991 by the petitioners, still respondent No.1 has not yet decided the said application.

5. In the facts and circumstances of the case, we direct respondent No.1 to decide the application filed by the petitioners under Section 28A of the Act within period of three months from today and to declare award under Section 28-A of the Act in respect of the acquired land of the petitioner. Rule is made absolute to the aforesaid extent with no order as to costs.

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